

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**CARLOS FLOYD**

**APPELLANT,**

**v.  
DEPARTMENT OF MENTAL HEALTH**

**RESPONDENT.**

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DOCKET NUMBER WD77017

DATE: October 28, 2014

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Appeal From:

Buchanan County Circuit Court  
The Honorable Randall R. Jackson, Judge

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Appellate Judges:

Division Three: Karen King Mitchell, Presiding Judge, Alok Ahuja, Chief Judge and Gary D. Witt, Judge

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Attorneys:

Steven B. Willibey, Kansas City, MO, for appellant.

D. Ryan Taylor, Kansas City, MO, for respondent.

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**CARLOS FLOYD,**

**APPELLANT,**

**v.**

**DEPARTMENT OF MENTAL HEALTH,**

**RESPONDENT.**

No. WD77017

Buchanan County

Before Division Three: Karen King Mitchell, Presiding Judge, Alok Ahuja, Chief Judge and Gary D. Witt, Judge

Appellant Carlos Floyd was committed to the Department of Mental Health by the Circuit Court of Buchanan County after it found Floyd not guilty by reason of insanity for the strangulation murder of his girlfriend. Seven years after he was committed, Floyd successfully applied for and was granted a one-year partial conditional release into the community. When that release ended, Floyd applied for and was granted a second one-year release. However, after several reports of Floyd's misbehavior while on release and Floyd's admitted violation of the terms of his second release by consuming alcohol while on a weekend pass, the Department revoked his release. Following an administrative hearing, the Department affirmed the revocation. Floyd petitioned the Circuit Court of Cole County for judicial review of the decision, alleging that the Department erred in allowing him to testify on his own behalf at the hearing and in admitting his medical records. Before the court could address his petition, Floyd dismissed it without prejudice. Floyd's second conditional release expired by its own terms shortly after Floyd dismissed this action. Relying on the savings statute, Floyd re-filed his petition for judicial review one year later and nearly twelve months after the conditional release at issue had expired. The circuit court dismissed his petition as moot.

Floyd raises three points on appeal. First, Floyd argues that his petition was not moot because the court could order remedies other than reinstating his expired release when reviewing an administrative decision. Second, Floyd argues that the Department erred in admitting his testimony at the adjudication hearing because Floyd had previously been deemed incompetent to testify. Third, Floyd argues the Department erred when it admitted his medical records at the hearing.

## **APPEAL DISMISSED**

Division Three holds:

Because Floyd was contesting the revocation of a release that had long since expired, there is no relief available in this court such that the petition is deemed moot and the appeal is dismissed.

Opinion by Gary D. Witt, Judge

October 28, 2014

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